



NEWS RELEASE

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Ninth Circuit Court of Appeals Mourns Passing of Judge Robert Boochever

SAN FRANCISCO – The Hon. Robert Boochever, a distinguished senior circuit judge of the United States Court of Appeals for the Ninth Circuit, died Sunday, October 9, 2011, at his home in Pasadena. He was 94.

Family members said Judge Boochever was found in his favorite easy chair and is thought to have passed peacefully in his sleep. Only a week earlier, on October 2, the judge had celebrated his birthday with a number of family members present.

“Judge Boochever was a gentle and generous person, a tireless advocate for the rights of minorities and the disadvantaged, and a warm and caring colleague. We will all miss him tremendously,” said Chief Judge Alex Kozinski of the Ninth Circuit Court of Appeals.

“Judge Boochever was one of my colleagues to whom the term ‘gentleman’ with emphasis on ‘gentle’ was apt,” added Senior Circuit Judge Betty Fletcher of Seattle. “He was kind, considerate, and thoughtful. He was a fine judge, paying close attention to the record and the applicable law and never losing sight of the meaning of justice.”

"Judge Boochever was a mentor of mine when he was Chief Justice of Alaska and I was teaching Judicial Administration at USC. He was then the most innovative Chief Justice in the U.S.," said Senior Circuit Judge Dorothy W. Nelson. "On our court, he continued to be an educator, an inspiration and dedicated to improving the administration of justice. I shall miss him greatly."

Nominated by President Carter, Judge Boochever was confirmed by the Senate and received his judicial commission on June 18, 1980, becoming the first Alaskan to sit on the court. He filled a seat vacated by Judge Shirley Hufstедler, who left the bench earlier that year to become the nation's first Secretary of Education. He served as an active judge for six years before taking senior status in 1986. He continued to carry a caseload for many more years, sitting on panels well into his 80s. His more noteworthy opinions include:

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- *Waits v. Frito-Lay, Inc.*, 978 F.2d 1093 (9th Cir. 1992), in which the court affirmed a jury verdict in favor of singer Tom Waits who had sued for voice misappropriation and false endorsement following the broadcast of a radio spot for Dorito corn chips.
- *Hoffman v. Capital Cities/ABC, Inc.*, 255 F.3d 1180 (9th Cir. 2001), in which the court reversed the district court's judgment in favor of actor Dustin Hoffman in his allegations that the magazine had used a photograph of him from the movie "Tootsie" to create a computer generated image that falsely depicted him wearing a fashion designer's clothing. Judge Boochever found the magazine was not pure commercial speech and thus was entitled to full First Amendment protection. He further held that the article was published without malice.
- *United States v. Twilley*, 222 F.3d 1092 (9th Cir. 2000), in which the court reversed a conviction after finding the defendant had standing as a passenger in a vehicle to seek suppression of evidence discovered in the vehicle, and that the traffic stop based on an officer's mistaken belief was not supported by reasonable suspicion.

Prior to joining the federal bench, Judge Boochever served on the Alaska Supreme Court from 1972 to 1980 and was the court's chief justice from 1975 to 1978. He was influential in that court's ruling that personal use of marijuana by Alaskan citizens was legal.

A native of New York City, Judge Boochever received his B.A. from Cornell University in 1939, and his law degree from Cornell University Law School in 1941. He served in the Army during World War II and was honorably discharged in 1945 at the rank of captain.

Judge Boochever moved to Juneau, Alaska in 1946 to take a job as an assistant U.S. Attorney for the Alaska Territory. A year later, he went into private practice as a partner in the Juneau law firm of Faulkner, Banfield, Boochever & Doogan, where he remained until his appointment to the state bench. Active in Juneau civic affairs, he served as chair of the town's first planning commission, and on the governing boards of various business groups, service clubs and charitable organizations. He is remembered for leading efforts to defeat a plan to move the state capital from Juneau in the early 1960s.

After his appointment to the Ninth Circuit bench, Judge Boochever continued to live in Juneau for several years but found the travel too difficult and wearisome. He moved his family to Pasadena in 1983, but continued to maintain a home in Juneau. Until about 10 years ago, he visited Juneau regularly, spending time each July meeting with residents and members of the bar.

Judge Boochever is survived by his daughters, Barbara Lindh, Ann Boochever, Miriam Medenica and Linda Boochever; his step-daughters, Betty Thompson, Joan Stark and Laurie Craig; 11 grandchildren; and three great-grandchildren. He was preceded in death by his first wife, Connie,

who died in 1999 after 56 years of marriage, and by his second wife, Rose Marie Borden, who died in 2010.

Funeral services are pending.

In lieu of flowers, the family suggests contributions be made to the Boochever and Bird Chair at the University of California at Davis School of Law. Checks should be made out to the UC Davis Foundation – Boochever Chair, and sent to:

UC Davis School of Law
Development and Alumni Relations
400 Mrak Hall Drive
Davis, CA 95616

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